

REMARKS:

Claims 1-9 and 19-27 are amended, claim 10 is withdrawn and claims 50-53 are added by this amendment.

This letter is responsive to the Office action dated November 26, 2003.

Objections to Specification

The specification is amended herein pursuant to the objections raised in paragraphs 4, 5 and 6 of the Office action and is submitted to be in proper form for allowance.

Objection to Drawings

Figure 5 of the drawing is amended per the objection raised in paragraph 3 of the Office action. Replacement sheets for all of the drawings are being submitted herewith to improve the format of the drawings.

Unconsented Withdrawal of Claims 4-8 and 22-26

In the previous Office action dated August 28, 2003, the Office specifically required election of a single species from among "the species of Figure 3, the species of Figure 5 and the species of Figure 7." In applicants' response dated September 25, 2003, applicants elected, without traverse, the species of Figure 5 and submitted that claims 1-9 and 19-27 read on the species of Figure 5.

In the present Office action, the Office now unilaterally withdraws claims 4-8, 10 and 22-26 based on an assertion that the elected species of Figure 5 "does not show such structure, i.e., fibers, superabsorbents, etc." Applicants respectfully traverse the withdrawal of claims 4-8 and 22-26, not on the grounds that the restriction requirement itself is improper,

but on the grounds that claims 4-8 and 22-26 clearly read on the elected species.

Figure 5 is a schematic cross-section of a pair of training pants including an absorbent body that has a central wetness indicating zone 171 and a pair of absorbent zones 173 adjacent to and on laterally opposite sides of the wetness indicating zone. The wetness indicating zone is cross-hatched in a manner different from the absorbent zones to indicate different characteristics between the zones. Claims 4-8 and 22-26 are respectively directed to various properties or characteristics of the materials of construction of the absorbent body recited in claims 1 and 19. For example, claims 4 and 22 are directed to the mixture of hydrophilic fibers and superabsorbent material from which the absorbent body is constructed; claims 5, 7, 8, 23, 25 and 26 are directed to the concentration of superabsorbent material in the absorbent body; and claims 6 and 24 are directed to relative densities of the different zones of the absorbent body.

These properties and characteristics are clearly disclosed in the specification at page 21, line 5 through page 25, line 5 in reference to the absorbent body shown in Figure 5. While the election made by applicants is to the "species of Figure 5," the Figure itself does not define the species without reference to the specification for a description of what is shown in the Figure. The Office cannot simply elect portions of the disclosure relating to Figure 5 and ignore the remaining disclosure relating to the same Figure without a more definite restriction requirement. For example, the prior Office action does not require election between structural components (e.g., absorbent structure, bodyside liner, absorbent body zones, etc.) and material properties/characteristics (e.g., materials

such as hydrophilic fibers and/or superabsorbent material, or characteristics such as density) of the absorbent article shown in Fig. 5.

Applicants therefore respectfully request consideration of claims 4-8 and 22-26.

#### Flowback Characteristics

Amended claims 1 and 19 and new claims 50-53 include recitation of an absorbent body having a flowback characteristic determined from a Flowback Test conducted in the experiments described in the present application. Support for entry of these flowback characteristics (as they relate to the species of Figure 5) can be found at least at page 25, line 6 through page 26, line 9, and in Figure 6.

It is also submitted that amended claims 1 and 19 and new claims 50-53 read on the elected species of Figure 5 for the same reasons as discussed above with respect to claims 4-8 and 22-26. More specifically, the Experiment described at page 25, line 6 through page 26, line 9 of the specification, as well as the results shown in Figure 6, establishes the flowback characteristics of the absorbent body shown in Figure 5. There is no way to show such a feature in the absorbent body of Figure 5.

#### Response to Claim Objections

The claims have been amended to satisfy the objections raised in paragraph 8 of the Office action.

Response to Rejection of Claims

Claim 1

Claim 1 is amended herein and is directed to a disposable absorbent article for personal wear wherein the disposable absorbent article comprises:

a generally liquid permeable liner adapted for contiguity with the wearer's skin;

an outer cover; and

an absorbent body between the liner and the outer cover for absorbing liquid body waste penetrating the liner, said absorbent body comprising a first zone and a second zone, the first zone having a lower absorbent capacity per unit weight than the second zone and facilitating the flow of liquid body waste from the first zone back through the liner for indicating to the wearer the release of liquid body waste into said article, the absorbent body having a flowback after one minute according to a Flowback Test of at least about 20 grams.

The essence of amended claim 1 is the particular configuration of the absorbent body to have a first zone having a lower absorbent capacity per unit weight than that of a second zone of the absorbent body. Even more so, the construction of the first and second zones of the absorbent body achieves a flowback after one minute as determined by the Flowback Test described in Example 1 of the present application of at least about 20 grams. That is, one minute after insult of the absorbent body, at least about 20 grams of liquid is available for flowback through the liner to facilitate a feeling of wetness to the wearer of the absorbent article.

Claim 1 as amended is submitted to be patentable over the references of record, and in particular U.S. Patent No.

5,047,023 (Berg), in that whether considered alone or in combination the references fail to show or suggest a disposable absorbent article including an absorbent body constructed to have a first zone of a lesser absorbent capacity per unit weight than a second zone and wherein the absorbent body achieves a flowback after one minute as determined by a Flowback Test of at least about 20 grams.

Berg discloses an absorbent member having a storage zone and an acquisition zone having a lower density and a lower average basis weight per unit area than the storage zone. The absorbent member is particularly disclosed as being constructed of hydrophilic fibers and particulate absorbent gelling materials having a certain particle mass median particle size and a certain particle size deviation from the mass median particle size. See, e.g., column 14, lines 10-26. Specifically, the particles are of a generally large size, having a mass median size in the range of 400 to 1190 microns, and more particularly greater than or equal to about 841 microns (column 15, lines 9-12).

Berg fails to disclose or otherwise suggest the flowback characteristics recited in amended claim 1. To the contrary, Berg instead discloses constructing the absorbent member to provide a dry feeling to the wearer. See, e.g., column 2, lines 39-43 and column 20, lines 27-31. At column 13, lines 56-67, Berg particularly discloses that using the larger gel particles provides unexpected advantages in absorbent capacity, acquisition and distribution. For example, the larger particles maintain a more open capillary structure to enhance planar transport of fluid to the storage zone for absorption by the gel particles in the storage zone (column 16, lines 54-64).

Thus, it is further submitted that the flowback characteristics of the absorbent body disclosed in amended claim 1 are not inherent in the absorbent member disclosed by Berg.

The other references of record similarly fail to show or suggest the combination of features recited in claim 1.

For these reasons, amended claim 1 is submitted to be patentable over Berg and the other references of record.

Claims 3-9 and new claims 50 and 51 depend directly from claim 1 and are submitted to be patentable over the references of record for the same reasons as claim 1.

#### Claims 50 and 51

New claim 50, depending directly from claim 1, further recites that the absorbent body has a flowback after five minutes according to the Flowback Test of at least about 10 grams. New claim 51 also depends directly from claim 1 and further recites that the absorbent body has a flowback after ten minutes according to the Flowback Test of at least about 5 grams.

Berg further fails to disclose or suggest a flowback after five minutes or after ten minutes. For reasons similar to those set forth above in connection with the patentability of amended claim 1, it is submitted that the flowback characteristics of the absorbent body recited in new claims 50 and 51 are also not inherent in the absorbent member disclosed by Berg.

For these additional reasons, new claims 50 and 51 are submitted to be patentable over Berg and the other references of record.

Claim 19

Claim 19 as amended herein is directed to a pair of toilet training pants comprising, *inter alia*, an absorbent body between a liner and an outer cover for absorbing liquid body waste penetrating the liner. The absorbent body comprises a first zone and a second zone wherein the first zone has a lower absorbent capacity per unit weight than the second zone and is capable of facilitating the flow of liquid body waste from the first zone back through the liner for indicating to the wearer the release of liquid body waste into the training pants. The absorbent body having a flowback after one minute according to a Flowback Test of at least about 20 grams.

Claim 19 is amended to recite the same flowback characteristics recited in amended claim 1 (the patentability of which is discussed above). For these reasons, amended claim 19 is submitted to be patentable over the references of record, including Berg, for at least the same reasons as claim 1.

Claims 20-27 depend directly or indirectly from claim 19 and are submitted to be patentable over the references of record for the same reasons as claim 19.

Claim 52

New claim 52 is directed to a disposable absorbent article for personal wear. The article comprises:

a generally liquid permeable liner adapted for contiguity with the wearer's skin;

an outer cover; and

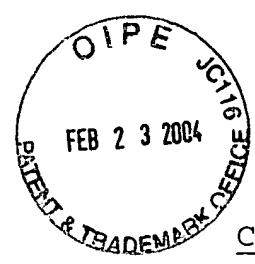
an absorbent body between the liner and the outer cover for absorbing liquid body waste penetrating the liner, said absorbent body comprising a first zone and a second zone, the first zone having a lower absorbent capacity per unit weight

than the second zone and facilitating the flow of liquid body waste from the first zone back through the liner for indicating to the wearer the release of liquid body waste into said article, the absorbent body having a flowback after five minutes according to a Flowback Test of at least about 10 grams.

New claim 52 is submitted to be patentable over the references of record, and in particular U.S. Patent No. 5,047,023 (Berg), for reasons similar to that discussed above in connection with amended claim 1. That is, whether considered alone or in combination, the references fail to show or suggest a disposable absorbent article including an absorbent body constructed to have a first zone of a lesser absorbent capacity per unit weight than a second zone and wherein the absorbent body has a flowback after five minutes as determined by a Flowback Test of at least about 10 grams. Moreover, it is submitted that the flowback characteristics of the absorbent body recited in new claim 52 are not inherent in the absorbent member disclosed in Berg.

#### Claim 53

New claim 53 is substantially similar to new claim 52 with the exception that new claim 53 recites the absorbent body as having a flowback after ten minutes according to a Flowback Test of at least about 5 grams. New claim 53 is submitted to be patentable over Berg and the other references of record for substantially the same reasons as set forth above in connection with amended claim 1 and new claim 52.



Conclusion

In view of the above, favorable consideration and allowance of claims 1-9, 19-27 and 50-53 as now presented is respectfully requested.

Respectfully submitted,

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